

**11-42-605 Local entity may authorize the issuance of assessment bonds -- Limit on amount of bonds -- Features of assessment bonds.**

- (1) After the 25-day prepayment period under Subsection 11-42-411(6) has passed or, if the 25-day prepayment period is waived under Section 11-42-104, after the assessment resolution or ordinance takes effect, a local entity may authorize the issuance of bonds to pay the costs of improvements in an assessment area, and other related costs, against the funds that the local entity will receive because of an assessment in an assessment area.
- (2) A local entity may, by resolution or ordinance, delegate to one or more officers of the issuer the authority to:
  - (a) in accordance with and within the parameters set forth in the resolution or ordinance, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
  - (b) approve and execute all documents relating to the issuance of a bond.
- (3) The aggregate principal amount of bonds authorized under Subsection (1) may not exceed the unpaid balance of assessments at the end of the 25-day prepayment period under Subsection 11-42-411(6).
- (4) Assessment bonds issued under this section:
  - (a) are fully negotiable for all purposes;
  - (b) shall mature at a time that does not exceed the period that installments of assessments in the assessment area are due and payable, plus one year;
  - (c) shall bear interest at the lowest rate or rates reasonably obtainable;
  - (d) may not be dated earlier than the effective date of the assessment ordinance;
  - (e) shall be payable at the place, shall be in the form, and shall be sold in the manner and with the details that are provided in the resolution authorizing the issuance of the bonds;
  - (f) shall be issued in registered form as provided in Title 15, Chapter 7, Registered Public Obligations Act; and
  - (g) provide that interest be paid semiannually, annually, or at another interval as specified by the governing body.
- (5)
  - (a) A local entity may:
    - (i)
      - (A) provide that assessment bonds be callable for redemption before maturity; and
      - (B) fix the terms and conditions of redemption, including the notice to be given and any premium to be paid;
    - (ii) subject to Subsection (5)(b), require assessment bonds to bear interest at a fixed or variable rate, or a combination of fixed and variable rates;
    - (iii) specify terms and conditions under which:
      - (A) assessment bonds bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate; and
      - (B) the local entity agrees to repurchase the bonds;
    - (iv) engage a remarketing agent and indexing agent, subject to the terms and conditions that the governing body agrees to; and
    - (v) include all costs associated with assessment bonds, including any costs resulting from any of the actions the local entity is authorized to take under this section, in an assessment levied under Section 11-42-401.
  - (b) If assessment bonds carry a variable interest rate, the local entity shall specify:
    - (i) the basis upon which the variable rate is to be determined over the life of the bonds;
    - (ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the bonds may carry.

(6)

(a) Nothing in this part may be construed to authorize the issuance of assessment bonds to pay for the cost of ordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalks.

(b) Notwithstanding Subsection (6)(a), a local entity may issue assessment bonds to pay for extraordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalk.

(c) A local entity's governing body may define by resolution or ordinance what constitutes ordinary repairs and extraordinary repairs for purposes of this Subsection (6).

(d) Nothing in this Subsection (6) may be construed to limit a local entity from levying an assessment within an assessment area to pay operation and maintenance costs as described in a notice under Section 11-42-402.

(7) If a local entity has issued interim warrants under Section 11-42-601 or bond anticipation notes under Section 11-42-602 in anticipation of assessment bonds that the local entity issues under this part, the local entity shall provide for the retirement of the interim warrants or bond anticipation notes contemporaneously with the issuance of the assessment bonds.

Amended by Chapter 145, 2011 General Session